



United States Attorney
Southern District of New York

The Silvio J. Mollo Building

One Saint Andrew's Plaza
New York, New York 10007

July 29, 2005

BY FACSIMILE

Honorable Kimba M. Wood
United States District Judge
Southern District of New York
500 Pearl Street, Room 1610
New York, New York 10007

Re: United States v. Matthew Ianniello, et al.
05 Cr. 774 (KMW)

Dear Judge Wood:

The Government respectfully submits this letter in support of the Government's appeal of an order entered yesterday by Magistrate Judge Douglas F. Eaton setting bail conditions for defendant Matthew Ianniello. The Court has scheduled argument on the Government's appeal for Friday, July 29, 2005, at 12:00 p.m.

The Government will provide a recitation of the facts supporting this appeal at the time of oral argument. The Government writes in advance of oral argument to inform the Court of certain legal authority upon which the Government will rely in its appeal. As alleged in the above-referenced indictment, the Government will present evidence in this case that Ianniello is an Acting Boss of the Genovese Crime Family of La Cosa Nostra and that, in that capacity, he has the authority to order numerous underlings in the Family to commit crimes and further the Family's interests. Prior authority in this district and in the Court of Appeals for the Second Circuit indicates that this set of circumstances raises the issue of danger to the community and is significant in any bail determination. As Judge Walker (then a District Judge) noted in detaining other ranking members of the Genovese LCN Family, "the activities of a criminal organization such as the Genovese LCN Family do not cease with the arrest of its principals and their release on even the most stringent of bail conditions. The illegal businesses, in place for many years, require constant attention and protection, or they will fail. Under these circumstances, this court recognizes a strong incentive on the part of its leadership to continue business as usual. When business as usual involves threats, beatings, and murder, the present danger such people pose to the community is self-evident." United States v. Salerno, 631 F. Supp. 1364, 1375 (S.D.N.Y. 1986). Where, as here, the defendant is an Acting Boss of the Genovese LCN Family, the danger is even more acute. As Acting Boss, Ianniello has legions of soldiers, associates, and captains who are bound to carry out his orders. See United States v. Defede, 7 F. Supp.2d 390, 395 (S.D.N.Y. 1998) (Kaplan, J.) (Government proffer that defendant was Acting Boss of Lucchese

Organized Crime Family provided sufficient basis for ordering defendant detained pending trial on single extortion charge; defendant's "ability to plan, order, and supervise criminal activity" made him "a danger at least as much for what he might direct or assist others in doing as for what he might do himself" (quoting United States v. Bellomo, 944 F. Supp. 1160, 1166 (S.D.N.Y. 1996) (prior Acting Boss of Genovese Family ordered detained based on finding that, "[o]utside of jail, Bellomo might find a number of ways to get orders to his associates"), and citing United States v. Orena, 986 F.2d 628, 632 (2d Cir. 1993) (in RICO prosecution, reversing district court's decision to grant bail to Captain in Colombo Organized Crime Family; noting that "[t]he additional conditions of house arrest, electronic surveillance, and interactions limited to immediate family, do not alleviate [the defendant's] danger to the community"); United States v. Colombo, 777 F.2d 96, 99 (2d Cir. 1985) (in RICO prosecution, reversing district court's order releasing on bail a defendant who "was the leader of an enterprise that carried out its criminal activities at his direction" notwithstanding that there was "virtually no evidence of Colombo's direct participation in the crimes charged"); United States v. Gotti, 776 F. Supp. 666, 671-72 (E.D.N.Y. 1991) (underboss of Gambino Organized Crime Family detained based, in part, on finding "that witnesses had been tampered with in other cases involving high ranking members of this 'family'"). Simply put, in light of the allegations in this case, and his position as an Acting Boss in the Genovese LCN Family, these cases strongly support the detention of Ianniello.

The Government submits that this legal authority, together with the charges in this matter and the facts that the Government will provide at oral argument, warrant an order of pretrial detention as to defendant Matthew Ianniello.

Respectfully submitted,

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By: _____/s/ _____
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cc: Jay Goldberg, Esq.
(By hand)